

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
Universal Service Contribution Methodology	)	WC Docket No. 06-122
	)	

**COMMENTS OF TRANSCOM ENHANCED SERVICES, INC.**

Now comes Transcom Enhanced Services, Inc. (“Transcom”), and pursuant to the Comment Cycle Public Notice,<sup>1</sup> submits these Comments on the proposed changes to FCC Forms 499A and 499Q and their accompanying Instructions, and states as follows:

Transcom’s interest pertains to one issue mentioned on page 3 of the request for comments<sup>2</sup> where the Bureau is contemplating whether to strike language from the current (and all past) Instructions regarding Line 404. Specifically, the Bureau proposes to delete this sentence (along with some other continuing words that Transcom does not object to removing) from the current Instructions: “Note that federal subscriber line charges typically represent the interstate portion of fixed local exchange service; these amounts are separate from toll revenues and correspond to the revenues received by incumbent telephone companies<sup>3</sup> to recover part of the cost of networks that allow customers to originate and terminate interstate calls. ...”

The Public Notice asserts that this existing language should be stricken “[i]n order to better reflect Commission precedent and rules.” The Public Notice does not cite to any such precedent or rules. The implication, however, is that the Bureau believes that LEC subscriber line charges are not “the interstate portion of fixed local exchange service” (“telephone exchange

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<sup>1</sup> Public Notice, *Wireline Competition Bureau Announces Deadline for Comments on Proposed Changes to FCC Form 499-A, FCC Form 499-Q, and Accompanying Instructions*, DA 12-2010 (Dec. 12, 2012).

<sup>2</sup> Public Notice, *Wireline Competition Bureau Seeks Comment on Proposed Changes to FCC Form 499-A, FCC Form 499-Q, and Accompanying Instructions*, DA 12-1872 (Nov. 23, 2012), corrected by *Erratum - Wireline Competition Bureau Seeks Comment on Proposed Changes to FCC Form 499-A, FCC Form-Q, and Accompanying Instructions* (Nov. 28, 2012).

<sup>3</sup> Transcom does not object to deleting the limitation to “incumbent telephone companies.” Competitive LECs are also able to institute subscriber line charges, and many do.

service” in statutory parlance) and are instead associated with some form of exchange access. If that is the assumption, we believe the precedent and rules show that assumption to be incorrect.

Subscriber line charges are *not* associated with any form of exchange access service. From the beginning it has been clear that they are merely the means to recover *telephone exchange service* costs that have been assigned to the interstate jurisdiction through the separations process. The D.C. Circuit’s opinion on review of the 1983-1984 Access Charge Orders specifically embraced this precise point. *National Asso. of Regulatory Utility Comm’rs v. FCC*, 737 F.2d 1095, 1111-1115 (D.C. Cir. 1984), *cert. den.* *National Asso. of Regulatory Utility Comm’rs v. FCC*, 469 U.S. 1227, 105 S. Ct. 1224, 105 S. Ct. 1225, 84 L. Ed. 2d 364, 1985 U.S. LEXIS 1106, 53 U.S.L.W. 3599 (1985). That Court succinctly stated the proposition on 737 F.2d at 1115 (emphasis in original):

The scheme advanced by the FCC simply requires all telephone subscribers to pay, on a per-line basis, for that portion of *their necessarily-incurred local telephone plant costs* assigned under *Smith* to the interstate jurisdiction. We cannot sensibly say that the FCC has overstepped the limits of its jurisdiction in embarking upon such an arrangement.

The language the Bureau proposes to remove<sup>4</sup> is fully consistent with applicable precedent, and correctly applies the Act’s distinction between “Telephone exchange service” and “Exchange access.” Retaining the language would best reflect the legal status and jurisdictional significance of interstate subscriber line charges under the Act. But it would not contribute to incorrect reporting, because the 499A Instructions will expressly require filers to report subscriber line charges on Line 405<sup>5</sup> rather than line 404.

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<sup>4</sup> Other than the limitation to ILECs.

<sup>5</sup> The proposed instructions on page 17 relating to Line 405 refer to subscriber line charges as a form of “access service.” They also properly note that subscriber line charge revenues are not “telephone toll service” revenues. This is consistent with past nomenclature. Unlike the proposed change to the Instructions for Line 404, this usage does not imply that “end user charges for access service” *see* Rule 69.4(a) is “exchange access” as defined by the Act rather than “telephone exchange service” as defined by the Act. *Compare* definition of “access service” as defined in Rule 69.2(b) *with* “exchange access” as defined in Act §153(2). The Rule definition of “access service”

The Bureau proposal to strike the referenced text in the proposed Instructions to Line 404 should not be adopted.

Respectfully submitted,

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comprehends more than origination or termination of “telephone toll service” and thus can include the mechanism by which telephone exchange plant costs allocated to the interstate jurisdiction through separations are recovered from end users, as part of an FCC overseen “exchange service” charge. *See* §153(54) and (55).